ST 07-0057-GIL 06/07/2007 MISCELLANEOUS

    Information concerning the tax liabilities of biodiesel-blended fuel under the Retailers'
    Occupation Tax Act may be found at 35 ILCS 120/2-10. (This is a GIL.)

                                    June 7, 2007

Dear Xxxxx:

        This letter is in response to your letter dated May 30, 2007, in which you request information.
The Department issues two types of letter rulings.   Private Letter Rulings ("PLRs") are issued by the
Department in response to specific taxpayer inquiries concerning the application of a tax statute or
rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer
who is the subject of the request for ruling and only to the extent the facts recited in the PLR are
correct and complete.   Persons seeking PLRs must comply with the procedures for PLRs found in
the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information
Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information
regarding the topic about which they have inquired.   A GIL is not a statement of Department policy
and is not binding on the Department.   See 2 Ill. Adm. Code 1200.120.   You may access our
website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant
to your inquiry.

        The nature of your inquiry and the information you have provided require that we respond with
a GIL. In your letter you have stated and made inquiry as follows:

        Please find the attached novice from ABC of Chicago, Illinois, and an Illinois Sales Tax
        ST-1 worksheet.

        Line 8e of the worksheet states 'Biodiesel blend (1-89 percent petroleum based
        products),' if you will note on the ABC invoice their blend is only 10.1% not the 11% that
        is mandated by line 8e. If ABC is not blending at the required amount, why are they
        allowed to claim the full sales tax exemption?

        Could you please respond to me in writing so I may inform my members of what the
        correct blend ratio must be to receive the full sales tax exemption?

        Thank you for your attention to this matter.

DEPARTMENT'S RESPONSE

        There are a couple of problems contributing to the scenario described.

        First, the "ST-1 Worksheet for Line 2" does not fully capture the sales tax allowances for the
biodiesel blend categories. Section 2-10 of the Retailers' Occupation Tax Act (35 ILCS 120/2-10)
provides that with respect to biodiesel blends with no less than 1% and no more than 10% biodiesel,

the tax applies to 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013. With respect to biodiesel blends with more than 10% but no more than 99% biodiesel, the sales tax does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013.

However, form "ST-1 Worksheet for Line 2" does not make any provisions for how to report decimal amounts of fuel in the blend. The form also bases the exemption calculation on the percentage of petroleum-based product rather than the percentage of biodiesel included in the blend. This makes it difficult for the taxpayer to properly calculate the appropriate exemption. The Department plans to work on this in order to make it easier to correctly calculate the exemption for biodiesel blends.

Second, in terms of the invoice attached to your letter, it appears that what the petroleum company has done is indicated that the fuel sold is in the "more than 10% but no more than 99% biodiesel range. This is the biodiesel blend range that is fully exempt from sales tax. Provided that documentation can substantiate the specific biodiesel percentage of each load sold at a percentage above 10%, the exemption appears to be properly taken.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk